SB CIVIL MISC. APPEAL NO. 330/1995.
(STATE OF RAJASTHAN & ANR. v RAMNATH & ORS.)

SB CIVIL MISC. CROSS OBJECTION
IN
SB CIVIL MISC. APPEAL NO. 330/

HON'BLE MR. JUSTICE R.S. CHAUHAN

DATE OF ORDER: 21.8.06

Mr. B.L. Avasthi Addl. G.A. for the State-appellant.
Mr. Vigyan Shah for
Mr. Ashok Mehta for the respondents.

This appeal and the cross-objection therein are being decided by this common order. While the State of Rajasthan has challenged the award dated 17.6.94 passed by the Motor Accident Claims Tribunal, Jaipur, whereby a compensation of Rs. 54,000/- has been awarded for the death of Smt. Panchi. The claimants, the husband and the two minor children, have filed the cross-objection against the said award.

Mr. Awasthi, the learned Addl. G.A, has canvassed two contentions before us; firstly, that Jagdish, the driver, who allegedly was driving the jeep at the time of the accident, was not authorised to do so. Secondly that the jeep was not even a Govt. vehicle. Hence the learned Tribunal has wrongly imposed the liability of payment of

compensation upon the Government.

Arguing the cross-objection Mr. Vigyan Shah, the learned counsel for the claimants, has raised five contentions before us. Firstly, that the case is covered under the old Motor Vehicle Act of 1939 where the multiplier was calculated by assessing the age of the deceased. According to the counsel the deceased was only aged 35 years at the time of her death. Taking the average life expectancy to be 65 years, she would have certainly lived for another 30 years. Thus, a multiplier of 30 should have been applied. Even after the upper limit of multiplier of 18 is taken, according to the learned counsel a multiplier of 18 should have been applied. However, the learned Tribunal has applied a multiplier of 13 without assigning any cogent reasons for such application. Secondly, the income of the deceased has not been doubled although admittedly she was a working woman at the time of her death and was earning monthly income of Rs. 600/- per month. Thirdly, that in case of a woman the loss of income from the household work should also be calculated. In support of his contention, the learned counsel has relied upon the case of Lata Wadhwa Vs. State of Bihar (2001, ACJ, 1735 (SC)) and on the case of M.V. Thapihyal Vs. Shyam Bawa (2003 ACJ 1061

(Raj.)). Fourthly, he has contended that no compensation has been awarded under the category of funeral expenses. Lastly he has contended that no compensation has been paid for loss of consortium.

We have heard the learned counsels for the parties and have perused the impugned award.

According to the 'Parcha Bayan' of Sukh Ram, the said jeep was being driven by Jagdish who was working under the District Education Officer. The said jeep was also registered in the name of Education Department. Thus, the jeep, which was carrying workers of the Department, was a Government vehicle. According to Ex. 4, the site plan and according to testimony of the injured person, Smt. Rajan Devi, Shambhudayal, Smt. Rukmani Devi and Pawan Kumar, they have testified to the fact that Jagdish was driving the jeep in a most rash and negligent manner. In fact, the jeep collided with a standing truck, on the left side of the road, in the back of the truck. These facts clearly prove that the jeep was a Government vehicle which was driven in a most rash and negligent manner by Jagdish. The finding of the learned Tribunal are, therefore, based on the oral

and the documentary evidence produced before the Tribunal. Thus , this Court is not inclined to interfere with the said finding. Hence the twin contentions raised by the learned Addl. G.A. are meritless.

At the time of accident and at the time of the impugned award, the formula that was used for assessing loss of income was the age of the deceased subtracted from the average age of an Indian citizen. The multiplier that should have been applied is of 30, but, considering the fact that the Hon'ble Supreme Court has taken the highest multiplier to be the 18, this Court is inclined to apply the multiplier of 16. Thus, the application of a multiplier of 13 applied by the learned Tribunal was misplaced.

As far as the income of the deceased is concerned, the learned Tribunal has rightly held the income to be Rs. 500/- per month. However, it has erred in deducting half of the income as the amount the deceased would have spent on herself. In fact the deceased would have spent only one-third of the income upon herself. Therefore, the loss of income should have been calculated as Rs. 332/- per month. Thus, the loss of income should be calculated at Rs. 332X12x16 = 63,744/-. Surprisingly, the learned Tribunal

awarded only Rs. 15,000/- for loss of love and affection and for loss of consortium. Considering the fact that the children, who were minor when they suddenly lost their mother and considering the fact that the Ramnath, the husband was 40 years of age at the time of death of his wife, the loss of consortium of Rs. 15,000/- is on the lower side. Hence, this Court is inclined to enhance the compensation in the category of “loss of consortium” and “loss of love and affection” to Rs. 30,000/-. Surprisingly, the learned Tribunal has not granted any compensation for the funeral expenses to the bereaved family. Hence this Court is inclined to further grant Rs. 5,000/- in the said category. Thus the total compensation is being enhanced to Rs 98,744/- alongwith interest of 9% to be paid from the date of filing of this appeal i.e. from 13.9.94 till the realisation of the amount. The Government is directed to deposit the amount with the Tribunal within a period of two months from the date of receipt of certified copy of this order and the Tribunal is directed to issue notice to the claimants and to disburse the amount within one month thereafter.

(R.S. CHAUHAN) J.

MRG.